

## REMARKS

The present application has been reviewed in light of the Office Action dated April 1, 2010. Claims 34-42 are presented for examination, of which Claims 34, 37, and 40 are in independent form. Claims 34, 35, 37, 38, and 40-42 have been amended to define aspects of Applicant's invention more clearly. Support for the claim amendments may be found, for example, in paragraph [0135], and in FIGS. 12-14 as well as the discussions thereof in U.S. Patent Application Publication No. 2006/0136596, which corresponds to the present application.<sup>1</sup> Favorable reconsideration is requested.

The Office Action states that Claims 40-42 are rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. In response, each of Claims 40-42 has been amended to be directed to a "non-transitory computer-readable storage medium," as suggested by the Examiner. It is believed that the rejections under Section 101 have been obviated, and their withdrawal therefore is respectfully requested.

The Office Action rejects Claims 34-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,400,719 (*Chimura et al.*) in view of U.S. Patent No. 5,940,598 (*Strauss et al.*), in view of U.S. Patent Application Publication No. 2004/0139209 (*Mussman et al.*), and further in view of U.S. Patent Application Publication No. 2002/0095516 (*Nada*). For at least the following reasons, Applicant submits that independent Claims 34, 37, and 40, together with the claims dependent therefrom, are patentably distinct from the cited prior art.

The aspect of the present invention set forth in Claim 34 is directed to a communication apparatus that includes a facsimile communication unit, which performs

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<sup>1</sup> Any examples presented herein are intended for illustrative purposes and are not to be construed to limit the scope of the claims.

facsimile communications using a facsimile protocol, a central processing unit, a memory unit coupled to the central processing unit, a Voice over Internet Protocol (VoIP) connection unit, an IP communication unit, an IP address obtaining unit, a determination unit, and a control unit.

The Voice over Internet Protocol (VoIP) connection unit establishes a VoIP channel via an Internet Protocol (IP) network using a VoIP protocol. The IP communication unit communicates image data to a communication partner station using a file transmission protocol via the IP network. Based on a telephone number of the communication partner station, the IP address obtaining unit obtains an IP address of the communication partner station from a Session Initiation Protocol (SIP) proxy server.

Notably, the determination unit determines whether a data communication via the IP network uses the file transmission protocol by transmitting an initial message of the file transmission protocol based on a response message received from the SIP proxy server indicating an end of a SIP message exchange. In accordance with a determination by the determination unit, the control unit selects the facsimile communication unit or the IP communication unit. If the determination unit determines that the data communication via the IP network uses the file transmission protocol, the control unit selects the IP communication unit. If the determination unit determines that the data the communication via the IP network does not use the file transmission protocol, the control unit selects the facsimile communication unit.

If the control unit selects the IP communication unit, the control unit causes the IP communication unit to communicate the image data to the communication partner station using the file transmission protocol using the IP address of the communication partner station obtained by the IP address obtaining unit. If the control unit selects the facsimile communication unit, the control unit causes the facsimile communication unit to communicate the image data to the

communication partner using the facsimile protocol via the VoIP communication channel established by the VoIP connection unit using the IP address of the communication partner station obtained by the IP address obtaining unit.

By virtue of the operation of the determination and control units of Claim 34, the file transfer protocol and the Session Initiation Protocol (SIP) can be used in combination to transfer the image data to the communication partner seamlessly, for example. That is, a source IP address included in the response message indicating the end of the SIP message can be used as a destination IP address, for example, in messages according to the file transfer protocol that are used to transmit the image data directly from the claimed communication apparatus to the communication partner station.

*Chimura et al.* is understood to relate to a method performed by a communication system to allow a plurality of telephone terminals to communicate via the Internet (*see* col. 1, lines 10-13). As best understood by Applicant, *Chimura et al.* fails to teach or suggest determining whether a data communication via an IP network uses a file transmission protocol, much less transmitting an initial message of a file transmission protocol based on a response message received from a SIP proxy server to determine whether a data communication via an IP network uses a file transmission protocol. Moreover, *Chimura et al.* is not understood to teach or suggest that image data is communicated to a communication partner using a facsimile protocol via a VoIP communication channel, if a determination is made that a data communication via an IP network does not use a file transmission protocol.

*Mussman et al.* is understood to relate to a method for routing calls through a network (*see* paragraph 1). Nothing has been found in *Mussman et al.* that is believed to remedy the deficiencies of *Chimura et al.* identified above.

*Strauss et al.* is understood to relate to a network server that provides multi-mode communications via a combination of a public switched telephone network and a public packet data network (*see col. 1, lines 6-11*). Nothing has been found in *Strauss et al.* that is believed to remedy the deficiencies of *Chimura et al.* identified above.

*Nada* is understood to relate to a telephone system and a telephone apparatus that use the Internet (*see paragraph 1*). Nothing has been found in *Nada* that is believed to remedy the deficiencies of *Chimura et al.* identified above.

In summary, Applicant submits that a combination of *Chimura et al.*, *Mussman et al.*, *Strauss et al.*, and *Nada*, assuming such combination would even be permissible, would fail to teach or suggest a communication apparatus that includes “a determination unit adapted to determine whether a data communication via the IP network uses the file transmission protocol by transmitting an initial message of the file transmission protocol based on a response message received from the SIP proxy server, the response message indicating an end of a SIP message exchange,” and “a control unit adapted to select the facsimile communication unit or the IP communication unit, in accordance with a determination by the determination unit, wherein, if the determination unit determines that the data communication via the IP network uses the file transmission protocol, the control unit selects the IP communication unit, and, if the determination unit determines that the data communication via the IP network does not use the file transmission protocol, the control unit selects the facsimile communication unit, and wherein, if the control unit selects the IP communication unit, the control unit causes the IP communication unit to communicate the image data to the communication partner station using the file transmission protocol using the IP address of the communication partner station obtained by the IP address obtaining unit, and, if the control unit selects the facsimile communication unit,

the control unit causes the facsimile communication unit to communicate the image data to the communication partner using the facsimile protocol via the VoIP communication channel established by the VoIP connection unit using the IP address of the communication partner station obtained by the IP address obtaining unit,” as recited in Claim 34. Accordingly, Applicant submits that Claim 34 is patentable over the cited art, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a).

Independent Claims 37 and 40 include features sufficiently similar to those of Claim 34 that these claims are believed to be patentable over the cited art for the reasons discussed above. The other rejected claims in the present application depend from one or another of independent Claims 34, 37, and 40 and are submitted to be patentable for at least the same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, however, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and an early passage to issue of the present application.

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Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should be directed to our address listed below.

Respectfully submitted,

/Lock See Yu-Jahnes/  
Lock See Yu-Jahnes  
Attorney for Applicant  
Registration No. 38,667

FITZPATRICK, CELLA, HARPER & SCINTO  
1290 Avenue of the Americas  
New York, New York 10104-3800  
Facsimile: (212) 218-2200

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